

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

AUBRY MCMAHON,

Plaintiff,

v.

WORLD VISION, INC.,

Defendant.

CASE NO. C21-0920JLR

ORDER

Before the court is Defendant World Vision, Inc.’s (“World Vision”) motion for reconsideration and/or clarification of the court’s July 24, 2023 order granting Plaintiff Aubry McMahon’s motion for reconsideration. (Mot. (Dkt. # 46); *see also* 7/24/23 Order (Dkt. # 44).) In its July 24, 2023 order, the court vacated the portion of its June 12, 2023 order in which it concluded that the Church Autonomy Doctrine barred Ms. McMahon’s claims, granted World Vision’s motion for summary judgment, and denied Ms. McMahon’s motion for partial summary judgment. (*See* 7/24/23 Order at 11; 6/12/23 Order (Dkt. # 38).) World Vision asks the court to reconsider its decision to vacate that

1 portion of its June 12, 2023 order, or alternatively, to clarify the issues that the parties  
 2 may raise in their renewed cross-motions for summary judgment. (*See generally* Mot. at  
 3 1, 8.) With respect to the clarification portion of its motion, World Vision contends that  
 4 the court should be permit it to argue its lack of subject matter jurisdiction and Church  
 5 Autonomy Doctrine affirmative defenses in its renewed motion.<sup>1</sup> (*Id.* at 7-8.)

6 On August 8, 2023, the court denied the portion of World Vision’s motion in  
 7 which it requests reconsideration of the court’s July 24, 2023 order (*id.* at 1-7), ordered  
 8 Ms. McMahon to response to the clarification portion of World Vision’s motion (*id.* at  
 9 7-8), and deferred ruling on the clarification issue pending Ms. McMahon’s response.  
 10 (8/8/23 Order at 2.) Ms. McMahon timely responded to the clarification portion of World  
 11 Vision’s motion. (Resp. (Dkt. # 48).) She requests that the court “issue an order  
 12 reiterating that (1) the [c]ourt has already rejected [World Vision’s] subject matter  
 13 jurisdiction and Church Autonomy Doctrine arguments, and (2) what remains for  
 14 decision are [World Vision’s] other affirmative defenses and the applicability, if any, of  
 15 *303 Creative LLC v Elenis*, 143 S. Ct. 2298 (2023).” (*Id.* at 4-5.)

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 18 <sup>1</sup> In the clarification section, World Vision also argues that the parties should be  
 19 permitted to address the applicability of *Bostock v. Clayton Cnty.*, \_\_ U.S. \_\_, 140 S. Ct. 1731,  
 20 1741 (2020) to this case. (Mot. at 8.) However, as Ms. McMahon correctly notes, this argument  
 21 is more appropriately considered a request for reconsideration of the court’s July 24, 2023 order,  
 22 rather than a request for clarification of the scope of the renewed cross-motions for summary  
 judgment. (*See* Resp. at 1-2.) World Vision’s argument implies that the court erred by relying  
 on *Bostock* to reject World Vision’s contention that its Biblical marriage standard of conduct “is  
 not facially discriminatory because it targets conduct rather than protected traits.” (*See* 7/24/23  
 Order at 7; Mot. at 8 (contending that *Bostock* is limited to status rather than conduct).) Because  
 the court has already denied reconsideration portion of World Vision’s motion (8/8/23 Order  
 (Dkt. # 47) at 2), it does not address this point any further in this order.

1 Being fully advised, the court rules on World Vision’s request for clarification as  
2 follows. First, the court declines to allow World Vision to reargue the issue of subject  
3 matter jurisdiction. The court rejected World Vision’s subject matter jurisdiction  
4 argument in its June 12, 2023 summary judgment order. (6/12/23 Order at 13-14.)  
5 World Vision never moved for reconsideration of that portion of the order (*see generally*  
6 Dkt.; Mot. at 1-7 (not seeking reconsideration of that issue)), nor has it offered a  
7 persuasive argument as to why it should be permitted to reargue the subject matter  
8 jurisdiction issue in the renewed cross-motions for summary judgment (*see* Mot. at 8).

9 Second, the court declines to allow World Vision to continue to argue that the  
10 Church Autonomy Doctrine precludes Ms. McMahon’s claims. The court’s July 24,  
11 2023 order granting Ms. McMahon’s motion for reconsideration did not, as World Vision  
12 contends, analyze “only the applicability of the *Opara*/[*McDonnell Douglas*]”  
13 burden-shifting framework. (*See* Mot. at 1; 7/24/23 Order at 4-11.) Rather, the court’s  
14 July 24, 2023 order held that: (1) World Vision rescinded Ms. McMahon’s job offer  
15 pursuant to a facially discriminatory policy; (2) the *Opara/McDonnell Douglas* burden  
16 shifting framework is inapplicable to Ms. McMahon’s claims because her job offer was  
17 rescinded pursuant to a facially discriminatory policy; and (3) the Church Autonomy  
18 Doctrine did not bar Ms. McMahon’s claims because the claims could be resolved using  
19 neutral principles of law. (7/24/23 Order at 11; *see id.* at 4-11.)

20 Equally unavailing is World Vision’s argument that the court should allow it to  
21 revisit the Church Autonomy Doctrine because “‘neutral principles’ . . . has not yet been  
22 argued” and the court’s July 24, 2023 order did not address every one of the Church

1 Autonomy Doctrine cases cited in World Vision's original summary judgment briefing  
2 and motion for reconsideration. (Mot. at 7-8; *see also* Mot. at 1-7 (citing cases); Def.  
3 MSJ (Dkt. # 26) at 22-23; Def. MSJ Reply (Dkt. #34) at 3-7; Def. MSJ Resp. (Dkt. # 32)  
4 at 28-30.) The court has considered World Vision's cited Church Autonomy Doctrine  
5 cases at least three times: first, when it resolved the Church Autonomy Doctrine issue in  
6 World Vision's favor in its June 12, 2023 order; second, when it reversed course and  
7 resolved the issue in Ms. McMahon's issue in deciding her motion for reconsideration;  
8 and third, when it denied World Vision's motion for reconsideration of the same. (*See*  
9 6/12/23 Order at 15-25; 7/24/23 Order at 10-11; 8/8/23 Order at 2; *see also* Pl. MFR  
10 (Dkt. # 40) at 2-6 (discussing the cases cited in the court's June 12, 2023 order).)  
11 Additionally, the parties have had ample opportunity to brief the issue of whether this  
12 case could be decided based on neutral principles of law, and the court has already  
13 rejected World Vision's contentions that the neutral principles standard has not been met  
14 or is inapplicable here.<sup>2</sup> (*See* 8/8/23 Order at 2; 7/24/23 Order at 10-11.)

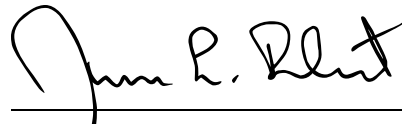
15 For the foregoing reasons, the court GRANTS in part and DENIES in part the  
16 clarification portion of World Vision's motion (Dkt. # 46 at 7-8). Specifically, the court  
17 rejects World Vision's contentions that it should be permitted to reargue its lack of  
18 subject matter and Church Autonomy Doctrine affirmative defenses in the renewed  
19 cross-motions for summary judgment. In the parties' renewed cross-motions for  
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21 <sup>2</sup> The Ninth Circuit recently reaffirmed the application of the neutral principles of law  
22 standard to the court's consideration of a Church Autonomy Doctrine defense. *Huntsman v.*  
*Corp. of the President of the Church of Jesus Christ of Latter-Day Saints*, No. 21-56056, 2023  
WL 5008207, at \*4-5 (9th Cir. Aug. 7, 2023).

1 summary judgment, the parties may address World Vision's remaining affirmative  
2 defenses<sup>3</sup> and the impact, if any, of the Supreme Court's recent decision in *303 Creative*  
3 *LLC v. Elenis*, \_\_ U.S. \_\_, 143 S. Ct. 2298 (2023) on those defenses. The court  
4 ORDERS the parties to meet and confer and submit, by no later than **August 21, 2023**, a  
5 joint statement setting forth a proposed briefing schedule for their renewed cross-motions  
6 for summary judgment regarding World Vision's affirmative defenses. The court will  
7 enter a new trial schedule, if appropriate, after it rules on the parties' renewed cross-  
8 motions for summary judgment.

9 Dated this 14th day of August, 2023.

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12 JAMES L. ROBART  
13 United States District Judge  
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21 <sup>3</sup> The remaining affirmative defenses are World Vision's religious organization  
22 exemption, ministerial exception, Free Exercise clause, Expressive Association, and bona fide  
occupational qualification defenses. (*See* Def. MSJ (addressing each of these defenses); Def.  
MSJ Reply (same).)